THE CHIEFTAIN

For the cause that lacks assistance,
For the wrong that needs resistance,
For the future in the distance,
And the good that we can do.

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Tahlequah Items.

The National Council, although within 4 or five days of the close of the session as fixed by the Constitution, has accomplished but little legislation and that of not much importance. Among the measures passed, if not the only ones, is a bill to build court houses, one making appropriations for the jail and one removing the court house in Saline district to the Sequoyah spring and that in Delaware district to the Yellow Spring in Cow Skin Prairie. The most important bill pending is one in the Council in relation to introducing and grazing stock in the Nation and one for the appointment of a delegation to Washington. A bill will be introduced into the Senate by Mr. Scrimsher to incorporate the "Cherokee National Railway" company with authority to construct and operate a railroad from a point on the Arkansas line, near Fort Smith via Fort Gibson to the northern line of the Territory, somewhere in the valley of the Arkansas river, with a branch from the main line of the railroad to Tahlequah. Its passage is doubtful, especially at this late stage of the session.

Among the positions to be filled and which are more or less sought after, are a superintendent each of the two High schools, three members of the Commissioners court on Citizenship and members of the Delegation of whatever number may be designated by law. Several measures of importance to the people, especially those relating to the stock and land interests of the Nation, will be allowed to go by default, and that notwithstanding they clearly demand prompt and sensible legislation to prevent the abuse of the one and the monopoly of the other. There will be in all probably an extra session.

Tuesday morning about 3 o'clock Thomas Arnold, a handsome and intelligent half-blood Cherokee, was shot in the body twice and instantly killed in his own house in the suburbs of the town, where drinking and gambling were indulged in to some extent. Report says that there were only three persons in the house at the time—Arnold, the deceased, Yotunnah Vann and Mitchell Squirrel. The particulars are not fully known but it is supposed that both Vann and Squirrel shot him. Vann reported the occurrence to the sheriff and remained about town until after breakfast when he left. It is said that Arnold was also robbed, but it is not known upon what authority the statement is made. Vann is between 60 and 70 years of age and has sustained a fair character although of a hasty temper and given occasionally to drink.

A report reaches here this morning, that Saturday night last as an old man named Judge Noisy-Water and three other Cherokees were returning to their homes in the Nation, from Siloam Springs, Ark., along the public highway, they were halted by a party of men concealed by the road side and asked "Is that you Zeke?" The reply immediately given was: "No this is not Zeke's party." Instantly they were fired upon and Noisy Water fell dead with more than one hundred buck shot lodged in his body. The other three escaped but as one of them has not been heard from, it is supposed he too was killed. The shooting is charged to one Andrews, who acts as posse for U. S. Deputy Marshal Jones and a party waylaying the road for Zeke Proctor against whom there may have been a charge of some kind. Noisy Water was an old man, inoffensive in character, who earned his living by manual labor. There was no charge of any kind against him and he was unarmed, not having so much as a pocket knife. The case has produced no little excitement and indignation among people of all classes.

PRICE OF STOCK CATTLE FOR 1884

The indications now are that stock cattle will rule high in the spring. A large area in the western part of the Indian Territory has been leased by the various tribes to ranchmen, covering lands not heretofore used as a range. These are generally being inclosed with wire, and at least a hundred thousand head of cattle will have to be purchased to stock them. In the eastern part of the Nation the legislature of several tribes have granted citizenship papers to a large number of persons with Indian blood who have never lived in the territory, and many of these are preparing to stock large ranges. These cattle must come from Texas. We hear of a number of large ranges in New Mexico having been recently bought with the view of stocking from the south, requiring fifty thousand or more, and there are a few large ranges in the extreme western part of Texas not yet fully stocked. Wyoming, Montana and Dakota want more cattle, so it looks now as if the demand would more than cover the supply. Hence we may look for little, if any, falling off from last year's prices for range cattle.—*Northwestern Live Stock Journal.*

The Lands West of 96 Deg.

Much confusion of ideas has arisen about the condition of the lands west of the 96th degree, or the lands upon which the Cherokees in the treaty of 1866 agreed that friendly Indians could be settled. The treaty guaranteed that the Cherokee Nation should have possession of and jurisdiction over all that was not "sold and occupied" according to its terms. These terms were in no instance complied with, and all the steps taken were merely violent acts of power, by which the United States pretended to fix the price, and put Indian tribes thereon and fixed their boundaries in violation of its terms and without acquiring any rights under its condition.

The lands occupied by the Osages and Kaws were not taken in accordance with the treaty or they might have been held to be entitled to patent in equity. The Cherokee authorities did accept the amount ten years ago, and yet no title had or could pass. The tracts occupied by the Pawnees, Poncas, Nez Perces, Otoes and Missouries were taken without color of law, so far as the treaty was concerned. Had the lands been held by the Cherokees by Indian occupancy title, Congress might by law have disposed of it. The United States, however, had under law first divested these lands of Indian occupancy title, and then conveyed for a consideration their title to the Cherokee Nation. It was plain, therefore, that they could not convey them again. The neutral lands and the strip in Kansas had been ceded in trust to the United States to be disposed of according to the terms of the trust, and the Supreme Court in the Holden vs. Joy case and other cases, decided the Cherokee title to be a fee simple title, and the patent under the trustee good. On two occasions the Cherokee Council instructed her delegation to obtain, if possible, the 47.49 cents per acre for the whole. This was refused because by the terms of the treaty the Cherokees could only be paid for lands that were occupied. The Government, therefore, had without authority from the owners fixed the price—not of certain tracts—but the whole in a lump. There was no authority in treaty or law for buying the whole in a lump. The government of the United States put these tribes on the picked tracts from 1875 to 1881, and took no steps to pay for the lands in whole or in part.

In 1881, when the Cherokees suffered from drouth, they asked some relief out of the proceeds of these lands. Under instructions of the Legislature, they asked pay for the whole, or at least $500,000. The Committee refused to buy the whole, or consider themselves indebted for any but the occupied portions. The President in appraising, without authority of the treaty, had fixed the price of the land occupied by the Pawnees at seventy cents. Calculating that, and the land on which they had placed the Poncas and Nez Perces at 47.49 cents per acre, the rate fixed for the six million and a half acres, the amount would have been $252,478.00. The Cherokee delegation refused to receive such a price for the picked tracts. The committee had no power to fix the price, but from the evidence submitted from the department admitted that such amount was not enough, but appropriated $300,000 which they assumed was not more, but certainly less than the occupied lands were worth, leaving the remainder to be settled by a subsequent Congress. Under these steps no title could pass.

In 1881, in an earnest desire to secure title to the Poncas, an additional appropriation on that tract was made and paid of $48,389.60. This amount was invested, but there was no requirement to give title. These were appropriations on occupied lands and entailed no obligation. During the subsequent year the question of title, and who could execute patents was thoroughly discussed. The Osages and Poncas demanded patents, but upon the attempt to do so it was found that the United States could not make patents. They had no title. This was very thoroughly argued and determined in the department and committees.

At the annual legislative session of 1882 the Cherokee delegation were instructed to execute patents on receiving such additional amount as would make with what had been received $1.25 for the four occupied tracts west of the Arkansas river. This proposition by the Cherokee delegation was sent by the Secretary to Congress, but he sent with it a long statement from the Commissioner of Indian Affairs, insisting that the Cherokees should not be paid more than 47 cents per acre and stating that at that rate the Nation had been overpaid 834,595.70, and in the paper he held that they could not in law or equity be paid for any but the occupied lands. It is needless and impossible to detail all the steps taken or arguments made. The delegation demanded that they receive an additional amount of $341,276.09. When the committee finally agreed to these terms substantially, they took the ground that under the treaty the expenses of survey, appraisement, &c., should be deducted, and for this reason offered a balance of $300,000, conditioned to the execution of deeds and included a deed for Osages, about the price of which there had been no objection.

The Act passed March 3, 1883, authorized such a contract and the passage of deeds. On an examination it was found, first, that the act of the Cherokee Nation did not authorize a deed to the Osages, which the act of Congress required, and further that as the act did not specify expenses of survey, although the treaty did, and as the Cherokee act required $1.25 per acre, a deed so executed might be in excess of their authority and invalidate the deed, as the amount paid was a little less than $1.25 To meet these difficulties a special session was called, and the delegation authorized on the receipt of the additional $300,000 to execute the deeds. In this way the transaction was a compact between the Cherokee Nation and the United States, which was not finally executed and completed until the deeds were signed, the money paid into the treasury and the deeds delivered. The commissioner was overruled by Congress. As the constitution of the United States and the rules of both houses forbid appropriations of public money save when they are due, and as the only mode of estimating is in the annual estimates of the treasury department or a communication from the head of a department, the bill when pending in Congress was officially sent to the department of the Interior, which sent back its letter or estimate that if they would not buy the whole body, but only take the picked tracts that this sum of $300,000, together with the amount paid would be a fair amount for these lands.

Up to the day the deeds were signed the Cherokee Nation had an unsettled account and had not parted with title. On the 14th of June they had these occupied tracts less and so much more money. All the reports both the Clements report and the commissioners letter were made some time before, and dated before the transaction was closed. The debt reported was one before that date and not afterwards. The annual report of the Commissioner of Indian Affairs merely states the tract conveyed and the rest as the property of the Cherokee Nation.

Nothing could be more absurd than the idea of the United States loaning money to any one. The only right the United States has over that tract is the right to settle Indians there if they can induce the Cherokees to give a patent by offering them enough. That right they really waived when by law they prohibited Indian settlements there. As the United States can give no title to it it is practically worthless. After the transaction was closed Chief Bushyhead asked the Assistant Attorney General in the presence of the Secretary if there was any way the United States could get any more of it, except by offering the Cherokees what they were willing to take for it. The reply was that there were but two ways: To offer enough or take it by force, and the United States were hardly prepared to do that. The Secretary said he hardly expected any other Indian settlements to be made. The Cherokee Nation, therefore, has it determined by the Supreme Court that their title is a fee simple and a conveyance under it good, and by an act of Congress and a precedent that is an act accomplished and that cannot be disturbed, that the only way that any of their lands east or west of 96 deg. can be taken from them is by a bargain, and a patent issued by them.

Mrs. Matoy, and son; aged 14 years, are in custody at Fort Gibson for shooting, Tuesday last, Arch Casey, about ten miles east of Fort Gibson, putting his body in his wagon, driving it back after dark within three miles of his home and turning it adrift. The horses went to a neighbors house with the body in the wagon. The parties are all whites.

The North-Western Live Stock Journal, published at Cheyenne, Wyoming Territory, has made its appearance in the Newspaper world, and shows up some of the finest printed brand advertisements we have seen.

A distinguished man has said "I can not give an hour a day to my boy, but his teacher has him six. I can seldom teach him a lesson, his teacher must prepare him for life." It is of the greatest importance who teaches your child. you want it to study arithmetic, language &c. but the personal influence and example of the teacher will influence its life for more than arithmetic. See to it that your childrens teachers are such persons as you would like them to be when they have gone beyond your control.